

A

Patent
239/227

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 239/227
First Named Inventor: Farhad Khosravi, et al
Prior Application Information:
Examiner: Not yet assigned
Art Unit: Not yet assigned

BOX PATENT APPLICATION
Assistant Commissioner for Patents
Washington, D. C. 20231

FILING UNDER 37 CFR § 1.53(B)

This is a request for filing for a

☐ continuation ☐ divisional ☒ continuation-in-part (CIP)

application under 37 CFR § 1.53(b) of pending prior application Serial
No. 09/192,977 filed on November 16, 1998.

entitled: STRETCHABLE ANTI-BUCKLING COILED-SHEET STENT

For CONTINUATION or DIVISION APPS only: The entire disclosure of the prior application,
from which an oath or declaration is supplied under Box 4b, is considered a part of the
disclosure of the accompanying continuation or divisional application and is hereby
incorporated by reference. The incorporation can only be relied upon when a portion has been
inadvertently omitted from the submitted application parts.

35 Page(s) of Written Description
13 Page(s) of Claims
2 Page(s) of Abstract
28 Sheet(s) of Drawings ☐ formal ☒ informal
2 Page(s) of ☒ Declaration or ☐ Declaration and Power of Attorney
☒ Small Entity Statement

CERTIFICATE OF MAILING
(37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with
the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To
Addressee' in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

EL267173860
Express Mail Label No.

October 25, 1999
Date of Deposit

SALLY HARTWELL
Name of Person Mailing Paper

Sally Hartwell
Signature of Person Mailing Paper

Jc542 U.S. PTO
09/427260
10/25/99

09427260-102599

Jc682 U.S. PTO
10/25/99

- ☐ Pursuant to 37 § CFR 1.63(d)(1), a newly executed oath or declaration is not required.
- ☒ A newly executed oath or declaration is filed herewith
- ☐ I hereby state that the amendment referred to in the declaration filed to complete the prior application, in accordance with the requirements of 37 CFR § 1.53(b), did not introduce new matter therein.

I. AMENDMENTS

- ☐ Cancel in this application original Claims _____ of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)
- ☐ A Preliminary Amendment is enclosed. (Claims added by Amendment must be numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

II. INFORMATION DISCLOSURE STATEMENT

- ☒ An Information Disclosure Statement, PTO 1449, and copies of citations are submitted herewith.

III. PETITION FOR SUSPENSION OF PROSECUTION FOR THE TIME TO FILE AN AMENDMENT

- ☐ Filed herewith under separate cover is a petition for suspension of prosecution under 37 CFR § 1.103, together with the fee due under 37 CFR § 1.17 (h).

IV. FEE CALCULATION

BASIC FILING FEE:							\$760.00
Total Claims	50	-	20	=	30	x \$18.00	\$540.00
Independent Claims	5	-	3	=	2	x \$78.00	\$156.00
Multiple Dependent Claims	\$260	(if applicable)				<input type="checkbox"/>	\$0.00
TOTAL OF ABOVE CALCULATIONS							\$1,456.00
Reduction by ½ for Filing by Small Entity. Note 37 CFR §§ 1.9, 1.27, 1.28. If applicable, Verified Statement must be attached.							\$728.00
Misc. Filing Fees (Recordation of Assignment)							\$40.00
TOTAL FEES SUBMITTED HEREWITH							\$768.00

09427260-102599

V. SMALL ENTITY STATUS

A Verified Statement to establish small entity under 37 CFR §§ 1.9 and 1.27:

- ☒ is attached.
- ☐ has been filed in the prior application and such status is still proper and desired.
[37 CFR § 1.28(a)]

VI. DRAWINGS

[NOTE: DO NOT CHECK THIS IF PRIOR CASE IS NOT TO BE ABANDONED.]

- ☐ Transfer the drawings from the prior application to this application and, subject to Item 16 below, abandon said prior application as of the filing date accorded to this application. A duplicate copy of this request is enclosed for filing in the prior application file.
[May only be used if signed by (1) applicant, (2) assignee of record or (3) attorney or agent of record and before payment of issue fee. 37 CFR § 1.138.]
- ☐ Transfer the following sheet(s) of drawings from the prior application to this application.
- ☒ New drawings are enclosed ☐ formal ☒ informal

VII. PRIORITY - 35 USC § 119

- ☐ Priority of application Serial No. _____ filed on _____ in Country is claimed under 35 USC § 119.
- ☐ The certified copy has been filed in prior U.S. application Serial No. _____ on _____.
- ☐ The certified copy will follow.

VIII. RELATE BACK - 35 USC § 120

- ☒ Amend the Specification by inserting before the first line the sentence:
This is a continuation-in-part of co-pending application Serial No. 09/192,977
filed November 16, 1998.
- ☐ Relate back information included in preliminary amendment or specification.

IX. INVENTORSHIP STATEMENT

- ☒ With respect to the prior co-pending U.S. application from which this application claims benefit under 35 USC § 120, the inventor(s) in this application is (are):
- ☒ the same
- ☐ less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted:
- [Name(s) of inventor(s) to be deleted]

- ☒ The inventorship for all the claims in this application is:
- ☒ the same.
- ☐ not the same, and an explanation, including the ownership of the various claims at the time the last claimed invention was made, is submitted.

X. ASSIGNMENT

- ☒ The prior application is assigned of record to Endotex Interventional Systems, Inc.
- ☒ An Assignment of the invention to Endotex Interventional Systems, Inc. is attached.

XI. FEE PAYMENT BEING MADE AT THIS TIME

- ☐ Not attached. No filing fee is submitted. [This and the surcharge required by 37 CFR § 1.16(e) can be paid subsequently.]

☒ Attached.

- ☒ Filing fees. \$728.00
- ☐ Recording assignment. [**\$40.00** 37 CFR § 1.21(h)(1)] \$40.00
Petition fee for filing by other than all the inventors or
person on behalf of the inventor where inventor
refused to sign or cannot be reached.
[**\$130.00**; 37 CFR §§ 1.47 and 1.17(h)]
- ☐ Petition fee to Suspend Prosecution for the Time
Necessary to File an Amendment (New Application
Filed Concurrently.) —
[**\$130.00**; 37 CFR §§ 1.103 and 1.17(i)]
- ☐ For processing an application with a specification in a
non-English language. —
[**\$130.00**; 37 CFR §§ 1.52(d) and 1.17(k)]
- ☐ Processing and retention fee. —
[**\$130.00**; 37 CFR §§ 1.53(f) and 1.21(l)]

Total Fees Enclosed \$768.00

XII. METHOD OF PAYMENT OF FEES

- ☒ Attached is a check in the amount of \$768.00.
- ☐ Charge Lyon & Lyon's Deposit Account No. **12-2475** in the amount of _____.

XIII. AUTHORIZATION TO CHARGE ADDITIONAL FEES

The Commissioner is hereby authorized to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. **12-2475**:

- ☒ 37 CFR § 1.16(a) (filing fees)
- ☒ 37 CFR § 1.16(b) (presentation of extra claims)
- ☐ 37 CFR § 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)
- ☒ 37 CFR § 1.17 (application processing fees)
- ☐ 37 CFR § 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 CFR § 1.311(b))

XIV. INSTRUCTIONS AS TO OVERPAYMENT

- ☒ Credit Lyon & Lyon's Deposit Account No. **12-2475**
- ☐ Refund check

XV. POWER OF ATTORNEY

- ☒ The power of attorney in the prior application is to Lyon & Lyon LLP.
- ☒ The power of attorney in the prior application is to the registered attorneys and/or agents listed below and members of or associates in the law firm of **LYON & LYON LLP**, 633 West Fifth Street, 47th Floor, Los Angeles, California 90071, Registration No. 11,611, whose members are registered to practice in the U.S. Patent and Trademark office:

Roland N. Smoot, Reg. No. 18,718
Conrad R. Solum, Jr., Reg. No. 20,467
James W. Geriak, Reg. No. 20,233
Robert M. Taylor, Jr., Reg. No. 19,848
Samuel B. Stone, Reg. No. 19,297
Douglas E. Olson, Reg. No. 22,798
Robert E. Lyon, Reg. No. 24,171
Robert C. Weiss, Reg. No. 24,939
Richard E. Lyon, Jr., Reg. No. 26,300
John D. McConaghy, Reg. No. 26,733
William C. Steffin, Reg. No. 26,811
Coe A. Bloomberg, Reg. No. 26,605
J. Donald McCarthy, Reg. No. 25,119
John M. Benassi, Reg. No. 27,483
James J. Shalek, Reg. No. 29,749
Allan W. Jansen, Reg. No. 29,035
Robert W. Dickerson, Reg. No. 29,914
Roy L. Anderson, Reg. No. 30,240
David B. Murphy, Reg. No. 31,125
James C. Brooks, Reg. No. 29,898
Jeffrey M. Olson, Reg. No. 30,790
William A. English, Reg. No. 42,515

Steven D. Hemminger, Reg. No. 30,755
Jerrold B. Reilly, Reg. No. 32,293
Paul H. Meier, Reg. No. 32,274
John A. Rafter, Jr., Reg. No. 31,653
Kenneth H. Ohriner, Reg. No. 31, 646
Mary S. Consalvi, Reg. No. 32,212
Lois M. Kwasigroch, Reg. No. 35,579
Lawrence R. LaPorte, Reg. No. 38,948
Robert C. Laurensen, Reg. No. 34,206
Carol A. Schneider, Reg. No. 34,923
Hope E. Melville, Reg. No. 34,874
Michael J. Wise, Reg. No. 34,047
Richard J. Warburg, Reg. No. 32,327
Kurt T. Mulville, Reg. No. 37,194
Theodore S. Maceiko, Reg. No. 35,593
Bruce G. Chapman, Reg. No. 33,846
F. T. Alexandra Mahaney, Reg. No. 37,668
Stephen S. Korniczky, Reg. No. 34,853
James P. Brogan, Reg. No. 35,833
David A. Randall, Reg. No. 37,217
Christopher A. Vanderlaan, Reg. No. 37,747

- ☒ The power appears in the original papers in the prior application.
- ☐ The power does not appear in the original papers, but was filed on _____ in this application.
- ☒ A new power has been executed and is attached.
- ☒ Address all future communications to:

LYON & LYON LLP
633 West Fifth Street, 47th Floor
Los Angeles, California 90071
(714) 751-6606
Attention: William A. English

XVI. MAINTENANCE OF CO-PENDENCY OF PRIOR APPLICATION

- ☐ A petition, fee and response has been filed to extend the term in the pending **prior** application until _____. A copy of the petition for extension of time in the **prior** application is attached.
- ☐ A conditional petition for extension of time is being filed in the pending **prior** application. A copy of the conditional petition for extension of time in the **prior** application is attached.

XVII. ABANDONMENT OF PRIOR APPLICATION

- ☐ Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application co-pending with said prior application. At the same time, please add the words "now abandoned" to the amendment of the specification set forth in Item IX above.

Respectfully submitted,

LYON & LYON LLP

By: 

William A. English
Reg. No. 42,515

Dated: October 25, 1999

633 West Fifth Street, Suite 4700
Los Angeles, California 90071-2066
(714) 751-6606

Enclosures

Applicant or Patentee: FARHAD KHOSRAVI and HIMANSHU N. PATEL

Serial or Patent No.: Not Yet Assigned

Filed or Issued: Herewith

For: STRETCHABLE ANTI-BUCKLING COILED-SHEET STENT

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS (37 CFR 1.9(f) AND 1.27(c)) - SMALL BUSINESS CONCERN

I hereby declare that I am

☒ the owner of the small business concern identified below:

☐ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN ENDOTEX INTERVENTIONAL SYSTEMS, INC.

ADDRESS OF CONCERN 10231 Bubb Road, Cupertino, CA 95014

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third-party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed, to and remain with the small business concern identified above with regard to the invention, entitled

STRETCHABLE ANTI-BUCKLING COILED-SHEET STENT

by inventor(s) FARHAD KHOSRAVI and HIMANSHU N. PATEL

described in

☒ the specification filed herewith

☐ the application serial no. _____, filed _____

☐ patent no. _____, issued _____.

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 CFR 1.9(c) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27).

NAME n/a

ADDRESS _____
☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

NAME n/a

ADDRESS _____
☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small business entity is no longer appropriate. (37 CFR 1.28(b)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING JOHN MARONEY

TITLE OF PERSON SIGNING President

ADDRESS OF PERSON SIGNING 10231 Bubb Road, Cupertino, CA 95014

SIGNATURE  DATE 10/2/2012

655201-092/2460